

VERMONT PUBLIC POWER SUPPLY AUTHORITY

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December 15, 2009

Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

re: docket 7533
Investigation into Implementation of Standard
Offer Prices for Sustainably Priced Energy
Enterprise Development ("SPEED") resources

Dear Mrs. Hudson:

This letter constitutes the filing of the Group of Municipal Electric Utilities ("GMEU")* in accordance with the schedule established in this docket.

GMEU greatly appreciates and respects the extraordinary efforts made by the Hearing Officers and all parties relative to this docket; those efforts are a credit to the professionalism and work ethic of all involved. GMEU continues to believe, however, and respectfully reasserts, the position set forth in its letter of June 25, 2009 that this docket cannot properly be considered a "noncontested case docket" under any reasonable interpretation of the statute, and that the use of the prior record from the initial price review proceedings under 30 V.S.A. § 8005(b)(2)(B)(ii) is erroneous. See *In re Burlington Electric Light Department*, 149 Vt. 300, 542 A.2d 294 (1988); 3 V.S.A. § 810 (setting forth standards for admission of evidence and taking of notice in administrative proceedings).

Thank you for your consideration.

Very truly yours,



David John Mullett

cc: service list

* Barton Village, Inc. Electric Department, Village of Enosburg Falls Water & Light Department, Town of Hardwick Electric Department, Village of Hyde Park, Inc. Electric Department, Village of Jacksonville Electric Company, Village of Johnson, Inc. Water & Light Department, Village of Ludlow Electric Light Department, Village of Lyndonville Electric Department, Village of Morrisville Water & Light Department, Northfield Electric Department, Village of Orleans, Inc. Electric Department, Town of Readsboro Electric Light Department, Swanton Village, Inc. Electric Department

VERMONT PUBLIC POWER SUPPLY AUTHORITY

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June 25, 2009

Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

re: docket 7523
Implementation of Standard Offer Prices for
Sustainably Priced Energy Enterprise Development
("SPEED") Resources

Dear Mrs. Hudson:

In accordance with the schedule established at last Friday's prehearing conference and workshop, the Group of Municipal Electric Utilities ("GMEU")* submits the following comments relative to issues that should be considered in this docket. It is the understanding of the GMEU that the purpose of this filing is solely to list prospective issues rather than articulate positions on those issues, and that the filings due on July 2, 2009 will serve as the vehicle for setting forth positions of the parties relative to the issues that have been raised.

The GMEU agrees that the issues set out in the document handed out by Board staff last Friday, in addition to the wheeling issue raised by some parties, are appropriate ones for the Board to consider. The GMEU offers the following additional issues:

1. *Consideration of the relationship between this docket and the January 15, 2010 rate setting.* At the June 19th prehearing, Board staff appeared to suggest an intention to essentially "import" the record from this proceeding into the January 15, 2010 price determination required under 30 V.S.A. §8005(b)(2)(B)(iii). While this apparent intention stems from an appropriate desire to aggressively advance implementation of the Vermont Energy Act of 2009 ("VEA"), it may constitute a procedural mistake that could have the opposite effect. Under the express terms of the statute, the "noncontested case docket" is solely for the purposes of making the initial price assessments that must be completed by the end of September of this year. See 30 V.S.A. § 8005(b)(2)(B)(ii). The January 15, 2010 determination requirement is set forth separately in section (b)(2)(B)(iii), and that section does not reflect the noncontested case requirement. To "import" a record developed without formal evidence (and potentially based in part on *ex parte* communications) into a subsequent proceeding may create a significant likelihood of a successful appeal by any party unhappy with the January 2010 results, and thereby delay and complicate implementation of the VEA. GMEU identifies this issue up front in the hope that, by giving other parties and the Board a chance to comment on it, it can be satisfactorily addressed.

2. *Ex parte communication concerns.* Closely tied to the above issue is a risk that unlimited *ex parte* communications with the Board could taint both the January 2010 rate setting and future consideration of VEA-eligible projects as they seek certificates of public good or other regulatory approvals. Again, the GMEU recognizes that the Board's relaxation of its usual procedures is consistent with its desire to move forward

June 25, 2009

aggressively and to meet the statutory timetables, and with the statutory designation of this first phase as a noncontested case docket. As the number of parties and the breadth of questions asked on June 19th show, however, many questions and issues surrounding VEA implementation are also directly related to specific projects that developers and homeowners may have in mind. This concern might be addressed, and potential legal issues and delay surrounding it avoided, by a more clear delineation of the prospective scope of *ex parte* communications or some other means. GMEU looks forward to the comments of other parties on this issue as we work together surrounding VEA implementation.

3. *Contract/letter of intent issues.* The issues related to contracts or letters of intent may be somewhat broader than suggested in that items 9 and 12 of the Board's list. Potential issues surrounding contracts and/or letters of intent also include:

a. appropriate milestones to ensure that projects not proceeding are dropped so that others can move into the queue;

b. issues arising from a potential shrinking of the queue should utilities develop projects;

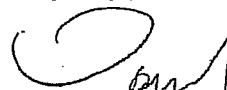
c. whether length of contracts is established by the Board or developer choice.

4. *Market products issues.* While the VEA provides that tradeable renewable energy credits associated with VEA contracts (except farm methane) are owned by the utilities, it appears to be unclear regarding ownership of and benefits from other market products, many of which may not yet have even evolved. These issues should be discussed and resolved at the outset.

5. *Relationship to prior statutory versions of SPEED.* The prior version of 30 V.S.A. § 8005(b)(2) provided for promulgation of a standard contract for SPEED projects of one megawatt or less. While it is clear that the amendments made to section 8005 by the VEA have superseded that language, it might be useful to confirm that there are no ongoing efforts or residual issues surrounding the prior version.

Thank you for this opportunity to add to the Board's list. The GMEU looks forward to commenting on the items in that list as well as the issues identified by the parties to this proceeding.

Very truly yours,



David John Mullett

cc: service list

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